30 pr

MONTANA LEGISLATIVE HISTORY

Chapter 486 1989

Bill H 295 S _____ Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Feb 01	✓ C	Hearing Date(s)	Mar 07	✓ C
	Feb 08	✓ C		Mar 08	✓ C
		C			C
		C			C
Date Out	Feb 08	✓ C		Mar 14	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

2/11	2ND READING PASSED	74	18
2/14	3RD READING PASSED	83	14
	TRANSMITTED TO SENATE		
2/15	REFERRED TO JUDICIARY		
3/07	HEARING		
3/15	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/16	2ND READING CONCURRED	47	0
3/18	3RD READING CONCURRED	46	0
	RETURNED TO HOUSE WITH AMENDMENTS		
3/30	2ND READING AMENDMENTS CONCURRED	93	3
3/31	3RD READING AMENDMENTS CONCURRED	95	3
4/06	SIGNED BY SPEAKER		
4/07	SIGNED BY PRESIDENT		
4/07	TRANSMITTED TO GOVERNOR		
4/11	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 486 EFFECTIVE DATE: 10/01/89		

HB 296 INTRODUCED BY DRISCOLL, ET AL.
APPROPRIATE MONEY TO INCREASE SALARIES FOR DIRECT SERVICE STAFF IN COMMUNITY-BASED DEVELOPMENTAL DISABILITIES PROGRAM

1/19	INTRODUCED		
1/20	REFERRED TO APPROPRIATIONS		
3/13	TABLED IN COMMITTEE		

HB 297 INTRODUCED BY ROTH, ET AL.
ALLOW DISPLAY OF LICENSE PLATE FOR THE YEAR THE VEHICLE WAS MANUFACTURED ON COLLECTOR'S ITEM MOTOR VEHICLE

1/19	INTRODUCED		
1/20	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/21	FISCAL NOTE REQUESTED		
1/26	HEARING		
1/27	FISCAL NOTE RECEIVED		
2/01	FISCAL NOTE PRINTED		
2/03	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/04	2ND READING PASSED	94	2
2/07	3RD READING PASSED	99	0
	TRANSMITTED TO SENATE		
2/08	REFERRED TO HIGHWAYS & TRANSPORTATION		
2/28	HEARING		
3/02	HEARING		
3/03	COMMITTEE REPORT--BILL CONCURRED		
3/04	2ND READING CONCURRED	47	0
3/07	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE		
3/13	SIGNED BY SPEAKER		
3/14	SIGNED BY PRESIDENT		
3/14	TRANSMITTED TO GOVERNOR		
3/18	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 150 EFFECTIVE DATE: 10/01/89		

HB 298 INTRODUCED BY MCCORMICK, ET AL.

2/02	HEARING		
2/02	COMMITTEE REPORT--BILL PASSED		
2/04	2ND READING PASSED	90	8
2/07	3RD READING PASSED	92	7
	TRANSMITTED TO SENATE		
2/08	REFERRED TO LOCAL GOVERNMENT		
3/07	HEARING		
3/08	COMMITTEE REPORT--BILL CONCURRED		
3/09	2ND READING CONCURRED	49	0
3/11	3RD READING CONCURRED	44	0
	RETURNED TO HOUSE		
3/17	SIGNED BY SPEAKER		
3/17	SIGNED BY PRESIDENT		
3/18	TRANSMITTED TO GOVERNOR		
3/23	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 270 EFFECTIVE DATE: 10/01/89		

HB 293 INTRODUCED BY COHEN, ET AL.
ALLOW CREDIT FOR HOUSEHOLD AND DEPENDENT CARE BASED ON INTERNAL REVENUE CODE

1/18	INTRODUCED		
1/19	REFERRED TO TAXATION		
1/20	FISCAL NOTE REQUESTED		
1/26	FISCAL NOTE RECEIVED		
1/28	FISCAL NOTE PRINTED		
2/02	HEARING		
3/16	COMMITTEE REPORT--BILL PASSED AS AMENDED		
3/22	FISCAL NOTE REQUESTED ON 2ND READING VERSION		
3/22	FISCAL NOTE RECEIVED		
3/28	FISCAL NOTE PRINTED		
3/29	2ND READING PASSED	58	39
3/30	3RD READING PASSED	66	31
	TRANSMITTED TO SENATE		
3/31	REFERRED TO TAXATION		
4/05	HEARING		
	DIED IN COMMITTEE		

HB 294 INTRODUCED BY GOULD
APPROPRIATE MONEY TO SCHOOL OF PHARMACY TO MEET ACCREDITATION STANDARDS

1/18	INTRODUCED
1/19	REFERRED TO APPROPRIATIONS
3/02	HEARING
3/08	HEARING
3/15	TABLED IN COMMITTEE

HB 295 INTRODUCED BY ADDY
CLARIFY LAW CONCERNING ACCESS TO JUSTICE DEPARTMENT REPORTS ON CAR ACCIDENTS

1/19	INTRODUCED
1/20	REFERRED TO JUDICIARY
2/01	HEARING
2/09	COMMITTEE REPORT--BILL PASSED AS AMENDED

HOUSE BILL NO. 295

INTRODUCED BY ADDY

IN THE HOUSE

JANUARY 19, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 20, 1989	FIRST READING.
FEBRUARY 9, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 10, 1989	PRINTING REPORT.
FEBRUARY 11, 1989	SECOND READING, DO PASS.
FEBRUARY 13, 1989	ENGROSSING REPORT.
FEBRUARY 14, 1989	THIRD READING, PASSED. AYES, 83; NOES, 14.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 15, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 15, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 16, 1989	SECOND READING, CONCURRED IN.
MARCH 18, 1989	THIRD READING, CONCURRED IN. AYES, 46; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 30, 1989	RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS CONCURRED IN.

MARCH 31, 1989

THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

House BILL NO. 295

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT CLARYIFYING THAT A PERSON INVOLVED IN A MOTOR VEHICLE ACCIDENT OR HIS LEGAL REPRESENTATIVE MAY EXAMINE, WITHOUT OBTAINING A COURT ORDER, ALL ACCIDENT REPORTS AND SUPPLEMENTAL INFORMATION CONCERNING THE ACCIDENT THAT ARE PREPARED AND FILED BY THE DEPARTMENT OF JUSTICE PURSUANT TO THE UNIFORM ACCIDENT REPORTING ACT; AND AMENDING SECTION 61-7-114, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-7-114, MCA, is amended to read:

"**61-7-114. Accident reports confidential.** (1) All required accident reports and supplemental reports shall be without prejudice to the individual so reporting and shall be for the confidential use of the department or other state agencies having use for the records for accident prevention purposes~~,~~ or for the administration of the laws of this state relating to the deposit of security and proof of financial responsibility by persons driving or the owners of motor vehicles~~,--except--that--the~~. The department may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such the accident.

(2) ~~All~~ Except as provided in this section, all accident reports and supplemental information filed as required by this part shall be confidential and not open to general public inspection, nor shall copying of lists of such reports be permitted~~,-except,-however,-that--the~~. The report and supplemental information filed by law enforcement personnel, as required by this part, may be examined and copied, without obtaining a court order, by any person named in such the report or reports or by any driver, passenger, or pedestrian involved in the accident or by his representative designated in writing, or if such the person ~~shall be~~ is deceased, by his executor or administrator or by the attorney representing such his executor or administrator.

(3) No such report ~~shall~~ may be used as evidence in any trial, civil or criminal, arising out of an accident~~,~~ ~~except-that-the~~. The department shall furnish upon demand of any person who has or claims to have made such a report or upon the demand of any court a certificate showing that a specified accident report has or has not been made to the department solely to prove a compliance or a failure to comply with the requirement that such a report be made to the department."

NEW SECTION. **Section 2.** Extension of authority. Any existing authority to make rules on the subject of the

INTRODUCED BILL
HB 295

provisions of [this act] is extended to the provisions of [this act].

-End-

Form CS-32
Rev. 1985

STATUS SHEET

51 LEGISLATIVE SESSION

JUDICIARY COMMITTEE

BILL NUMBER	ENTERED COM. DATE	DATE CON-SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON-CURRED IN DATE	BE NOT CON-CURRED IN DATE	BE CON-CURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
HB 201	1-17	1-27	1-27	1-27							
HB 248	1-18	2-1	2-1	2-1							
HB 260	1-18	1-26	1-26			1-26					
HB 264	1-18	2-1	2-6			2-6					
HB 265	1-18	1-27	1-30			1-30					
HB 286	1-19	1-31	1-31			1-31					
HB 291	1-19	2-2	2-17			2-17					
HB 292	1-19	2-2	2-2	2-2							
HB 295	1-20	2-1	2-9			2-9					
HB 310	1-20	2-13	2-13			2-13					
HB 312	1-20	1-31	1-31	1-31							
HB 313	1-20	2-6	2-9			2-9					
HB 316	1-23	2-8	TABLED	ON 2-9							
HB 330	1-23	2-9	TABLED	ON 2-9							

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dave Brown, on February 1, 1989, at 8:05 a.m.

ROLL CALL

Members Present: All

Members Excused: None.

Members Absent: None.

Staff Present: Julie Emge, Secretary
John MacMaster, Legislative Council

Announcements/Discussion: None.

HEARING ON HOUSE BILL 248

Presentation and Opening Statement by Sponsor:

Rep. Mary McDonough stated that in the 1987 Legislature the public retirement benefits were made exempt from bankruptcy proceedings. This bill would make private retirement benefits exempt from bankruptcy proceedings. Rep. McDonough commented that her main proponent was unable to attend the hearing; therefore, Sen. Mazurek was available for questioning and to help clarify the bill.

Testifying Proponents and Who They Represent:

Senator Joe Mazurek, Senate District 23

Proponent Testimony:

Sen. Mazurek commented that in the past, public retirements have been exempt from execution and have been exempt in bankruptcy proceedings. When the exemptions were redone by the committee, chaired by Rep. Mercer and Sen. Halligan, they extended the exemptions to private pensions as well as public employee retirement to give the same benefits to people who retired having worked in the private sector. On December 27, Judge Peterson said that it wasn't clear to him that we had intended to exempt all private pensions including IRA's from execution and from bankruptcy proceedings.

HEARING ON HOUSE BILL 295

Presentation and Opening Statement by Sponsor:

Rep. Addy stated that HB 295 is an effort to clarify the law regarding what a person has to do in order to get a written copy of an accident report in which they were involved. Rep. Addy commented that he believes that the law as it was worded before was intended to allow those people to be able to obtain a copy of the accident report without getting a court order. It wasn't stated clearly enough in the law and the city attorney in Billings said that if that information is to be released then the person must petition the district court and get an order from the judge saying that the police department shall release that information. By doing that, you require everybody who wants to get an investigative report and who is involved in the accident to pay a $60.00 filing fee for the petition as well as require them to send their lawyer to the court house to find the judge. All this bill is designed to do is give the police department, the city attorneys and the cities clearance so that if they release this information without a court order, their client isn't going to get in trouble because they are complying with the statute.

Testifying Proponents and Who They Represent:

Alan Chronister, State Bar of Montana
Michael Sherwood, Montana Trial Lawyers Association

Proponent Testimony:

Alan Chronister stated that the Bar supports the concept of this bill and for the reasons that Rep. Addy has stated. He commented that he would like to suggest to the Committee that they consider going a little farther than Rep. Addy has proposed to correct a couple of problems that he has personally encountered. Mr. Chronister stated that the problem under the statute is that there are two separate kinds of reports provided for in this act. One, are reports that are required by private persons, by drivers who are involved in an accident and the other kind of reports are the official reports that the highway patrol fills out. They are usually accompanied by diagrams, measurements, skid marks and photographs. This act was designed to encourage people who make out the private reports for the drivers to be totally candid and honest when they fill out their reports. Therefore, it has confidentiality provisions and is non-immeasurable in court provisions which i had always believed were intended to apply only to those private person reports. Even if there is no disagreement that those reports be admitted into evidence, there is still that clause in the statute that seems to indicate that under no circumstances might those be admitted. That sets up the

possibility that the party to a law suit might not object to admission of the evidence - a trial. Then, if they get an adverse result and it is up on appeal, they could say that the district court had no power to submit those reports. Mr. Chronister submitted to the Committee proposed amendments (EXHIBIT 4). If the confidentiality and non-immeasurably language is put back in the section which defines the private reports, it will remove the ambiguity as to whether or not the confidentiality and the non-immeasurably applies to the reports filed by the highway patrol.

Michael Sherwood stated that they support the proposed bill for the reasons set forth by Mr. Chronister.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: Rep. Brooke stated that there is a highway patrol report that can be obtained for a $2.00 fee. She questioned Mr. Chronister if this is the report he is speaking of. Mr. Chronister replied that the patrols official report is on a legal sized form with boxes on it. That is the report itself. There are supplemental materials which include the highway patrol and these forms can be used for witness statements (forms for diagrams of the accidents and photographs). Mr. Chronister stated that to his knowledge those forms are not sent out when the people get the $2.00 copy.

Rep. Eudaily commented to Rep. Addy that he has a friend who was recently involved in an accident. He was told that if he wanted a copy of the police report it would be a fee of $10.00. Rep. Eudaily questioned if they are using that money as a fund raiser. Is there a possibility that we ought to put something in the bill that says they can recover costs only? If the highway patrol is charging a $2.00 fee then why is the police department charging $10.00? Rep. Addy stated that he thinks that is the section of the law that they should deal with if they want to address that problem. It costs $50.00 more than that in Billings. One of the frustrations in Billings is if you have an accident on a state highway and the highway patrol issues a report you go out and pick up the report. If it is on a city street, you go get a court order.

Closing by Sponsor: Rep. Addy closed.

DAILY ROLL CALL

JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date FEB. 1, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH	X		
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN	X		

CS-30

12

VISITORS' REGISTER

JUDICIARY COMMITTEE

BILL NO. HOUSE BILL 295 DATE FEB. 1, 1989

SPONSOR REP. ADDY

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Mike Sherwood	MTLA	X	
Allen Chronister	State Bar	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dave Brown, on February 9, 1989, at 8:00 a.m.

ROLL CALL

Members Present: All members were present

Members Excused: None.

Members Absent: None.

Staff Present: Julie Emge, Secretary
John MacMaster, Legislative Council

Announcements/Discussion: None.

HEARING ON HOUSE BILL 330

Presentation and Opening Statement by Sponsor:

Rep. Jan Brown, House District 46 stated that the purpose HB 330 is to increase certain fees of the District Court, requested by the county commissioners.

Testifying Proponents and Who They Represent:

Dave Fuller, Chairman of the Lewis and Clark County Board of Commissioners

Proponent Testimony:

Dave Fuller stated that the increases that would result from this bill would go directly into the District Court fund. As the Committee is most likely aware, certain fees currently go to various places including the State, the judge retirement fund and some to the county general fund. This would be earmarked specifically for the District Court. Mr. Fuller stated the reason they want this bill is because district courts in most counties are not funded sufficiently under the statutory six mills. Quite simply, HB 330 is a revenue generating devise for district courts.

Testifying Opponents and Who They Represent:

None.

the computer decide what the sentence should be. Somewhere they need to leave the human element in the system. That's what's important, that's what gives it balance, and that's what gives it fairness.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: Rep. Wyatt motioned to TABLE HB 112, motion seconded by Rep. McDonough. A vote was taken and CARRIED with Rep.'s Gould, Hannah, Boharski, Eudaily and Aafedt voting No.

DISPOSITION OF HOUSE BILL 295

Motion: A DO PASS motion was made by Rep. Addy, motion seconded by Rep. Nelson.

Discussion: None.

Amendments, Discussion, and Votes: Rep. Addy moved to amend Page 2, Line 11, Following "writing ,", Insert by any party to a civil action arising from the accident,. Motion on the amendment was seconded by Rep. Eudaily. A vote was taken and PASSED unanimously.

Recommendation and Vote: Rep. Addy moved HB 295 DO PASS AS AMENDED, motion seconded by Rep. Darko. A vote was taken and CARRIED unanimously.

DISPOSITION OF HOUSE BILL 291

Motion: Rep. Hannah motioned to TABLE HB 291, motion seconded by Rep. Boharski.

Discussion: None.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: A vote was taken and CARRIED unanimously that HB 291 be TABLED.

HEARING ON HOUSE BILL 350

Presentation and Opening Statement by Sponsor:

Rep. Strizich, House District 41 stated that HB 350 is in response to a request by the Montana Probation Officers Association. This bill is designed to allow that part of the costs of the Administration of Restitution Programs will be paid by the offender owing restitution in a case involving property damage. Currently, no such fee is specified, which means that most jurisdictions receive no assistance. Restitution is a very important means of allowing an offender the opportunity to make amends while providing that their victim receives what is rightfully owed

STANDING COMMITTEE REPORT

February 9, 1989

Mr. Speaker: We, the committee on Judiciary report that HOUSE BILL 295 (first reading copy -- white) do pass as amended .

Signed: _____
Dave Brown, Chairman

And, that such amendments read:

1. Page 2, line 11.
Following: "writing,"
Insert: "or by a party to a civil action arising from the accident,"

DAILY ROLL CALL

JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date FEB. 9, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH	X		
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN	X		

CS-30

CHAIRMAN--BRUCE CRIPPEN
SECRETARY-ROSEMARY JACOBY
NORMAL SCHEDULE==> SITE: ROOM 325
COMMITTEE--(S) JUDICIARY
DAYS: M,T,W,T,F TIME: 10:00 A.M.
OFFICE--ROOM 412

NOTE: BILL WILL BE LISTED TWICE IF REREFERRED BACK TO THE SAME COMMITTEE

BILL	REFER DATE	LATEST DATE/ACTION ON BILL	
HB 135	01/26	04/24--TABLED IN COMMITTEE	
	SPONSOR: MERCER, JOHN	TITLE-REVISE WRONGFUL DEATH AND SURVIVORSHIP DAMAGES	
HB 146	01/26	02/24--(H) CHAPTER NUMBER	EFFECTIVE DATE: 07/01/89
	SPONSOR: STRIZICH, BILL	TITLE-ALLOW TRAINING AT THE MT. LAW ENFORCEMENT ACADEMY FOR NONSERVICE STUDENTS	
HB 147	02/02	03/22--(H) CHAPTER NUMBER	EFFECTIVE DATE: 10/01/89
	SPONSOR: WHALEN, TIM	TITLE-CUSTODIAL PARENT AS PERSONAL REPRESENTATIVE	
HB 152	02/02	03/21--(H) CHAPTER NUMBER	EFFECTIVE DATE: 07/01/89
	SPONSOR: ADDY, KELLY	TITLE-REVISE YOUTH COURT MENTAL COMMITMENT	
HB 168	02/06	03/15--(H) CHAPTER NUMBER	EFFECTIVE DATE: 10/01/89
	SPONSOR: LEE, THOMAS	TITLE-CERTAIN SENTENCES TO BE SERVED CONSECUTIVELY	
HB 169	02/28	04/06--(H) CHAPTER NUMBER	EFFECTIVE DATE: 04/06/89
	SPONSOR: LEE, THOMAS	TITLE-NO EXPUNGMENT OF RECORD WHEN SENTENCE IMPOSITION IS DEFERRED	
HB 177 A	02/11	03/23--(H) CHAPTER NUMBER	EFFECTIVE DATE: 01/01/90
	SPONSOR: BROWN, JAN	TITLE-CREATE ADMINISTRATIVE REVIEW PANEL FOR CHIROPRACTIC MALPRACTICE CLAIMS	
HB 178	02/02	03/13--(H) CHAPTER NUMBER	EFFECTIVE DATE: 10/01/89
	SPONSOR: CODY, DOROTHY	TITLE-TO CLARIFY LAW MANDATING REPORTS OF SUSPECTED CHILD ABUSE AND NEGLECT	
HB 179	02/06	03/03--(S) ADVERSE COM RPT ADOPTED (S) JUDICIARY	
	SPONSOR: LEE, THOMAS	TITLE-REMOVE TWO-YEAR LIMIT ON MODIFICATION OF DISSOLUTION, SEPARATION DECREE	
HB 185	02/11	03/29--(H) CHAPTER NUMBER	EFFECTIVE DATE: 10/01/89
	SPONSOR: WHALEN, TIM	TITLE-PROHIBITING DETENTION IN JAIL PENDING MENTAL HEALTH COMMITMENT HEARING	
HB 189	01/30	03/20--(H) CHAPTER NUMBER	EFFECTIVE DATE: 10/01/89
	SPONSOR: RICE, JIM	TITLE-INCREASE SENTENCE FOR CERTAIN INCEST OFFENDERS	
HB 204	02/11	04/10--(H) CHAPTER NUMBER	EFFECTIVE DATE: 04/10/89
	SPONSOR: COBB, JOHN	TITLE-SRS LIEN ON, RATHER THAN SUBROGATION FOR, MEDICAL ASSISTANCE PAID	
HB 206	02/08	03/23--(H) CHAPTER NUMBER	EFFECTIVE DATE: 10/01/89
	SPONSOR: GOULD, BUDD	TITLE-SUSPEND DRIVER'S LICENSE FOR FAILURE TO APPEAR/PAY FOR NO PROOF OF INSURANCE	
HB 232	02/17	03/22--(H) CHAPTER NUMBER	EFFECTIVE DATE: 07/01/89
	SPONSOR: BROWN, DAVE	TITLE-REVISE FEES OF CLERK OF DISTRICT COURT; IMPOSE FEE FOR CONCEALED WEAPON	
HB 248	02/08	03/24--(H) CHAPTER NUMBER	EFFECTIVE DATE: 03/24/89
	SPONSOR: MCDONOUGH, MARY	TITLE-CLARIFY EXEMPTION LAWS RELATING TO WAGES, RETIREMENT BENEFITS	
HB 260	01/31	02/23--(H) CHAPTER NUMBER	EFFECTIVE DATE: 10/01/89
	SPONSOR: CLARK, ROBERT	TITLE-MISDEMEANOR FOR DRIVING WHILE LICENSE IS SUSPENDED/REVOKED IN ANY STATE	
HB 265	02/06	03/20--(H) CHAPTER NUMBER	EFFECTIVE DATE: 03/20/89
	SPONSOR: STRIZICH, BILL	TITLE-REVISE AND REORGANIZE OPTIONS FOR DISPOSITION OF TROUBLED YOUTHS	
HB 286	02/06	03/06--(S) 3RD READING FAILED	
	SPONSOR: LEE, THOMAS	TITLE-LOWER COURT MAY PROHIBIT SENTENCED PERSON'S OWNING OR CARRYING WEAPON	
HB 295	02/15	04/11--(H) CHAPTER NUMBER	EFFECTIVE DATE: 10/01/89

CHAIRMAN--BRUCE CRIPPEN
SECRETARY-ROSEMARY JACOBY
NORMAL SCHEDULE==> SITE: ROOM 325

COMMITTEE--(S) JUDICIARY
DAYS: M,T,W,T,F TIME: 10:00 A.M.

OFFICE--ROOM 412

NOTE: BILL WILL BE LISTED TWICE IF REREFERRED BACK TO THE SAME COMMITTEE

BILL	REFER DATE	LATEST DATE/ACTION ON BILL	
		SPONSOR: ADDY, KELLY	TITLE-CLARIFY LAW CONCERNING ACCESS TO JUSTICE DEPARTMENT REPORTS ON CAR ACCIDENTS
HB 310	02/18	03/23--(H) CHAPTER NUMBER	EFFECTIVE DATE: 07/01/89
		SPONSOR: SCHYE, TED	TITLE-REVISE YOUTH COURT ACT PETITION FILING TIME AND HEARING PROVISIONS
HB 312	02/06	03/24--(H) CHAPTER NUMBER	EFFECTIVE DATE: 10/01/89
		SPONSOR: CONNELLY, MARY ELLEN	TITLE-AMENDING CUSTODY MODIFICATION STATUTE TO DEFINE PRIOR "CUSTODY DECREE"
HB 313	02/17	04/04--(H) CHAPTER NUMBER	EFFECTIVE DATE: 04/04/89
		SPONSOR: GRADY, ED	TITLE-REVISE SKIER RESPONSIBILITY LAW TO ADDRESS SUPREME COURT DECISION
HB 326	02/08	03/27--(H) CHAPTER NUMBER	EFFECTIVE DATE: 10/01/89
		SPONSOR: RICE, JIM	TITLE-EXEMPT PARALEGALS, LAW ASSISTANTS AND STUDENTS FROM PRIVATE INVESTIGATOR LAW
HB 349	02/15	04/11--(H) CHAPTER NUMBER	EFFECTIVE DATE: 10/01/89
		SPONSOR: STRIZICH, BILL	TITLE-DISPOSITION OF PROPERTY USED TO VIOLATE DRUG LAWS
HB 350	02/15	04/11--(H) CHAPTER NUMBER	EFFECTIVE DATE: 10/01/89
		SPONSOR: STRIZICH, BILL	TITLE-CONVICTED PERSON TO PAY COST OF SUPERVISING HIS PAYMENT OF RESTITUTION
HB 351	02/15	03/27--(H) CHAPTER NUMBER	EFFECTIVE DATE: 10/01/89
		SPONSOR: STRIZICH, BILL	TITLE-CRIMINAL OFFENSE TO POSSESS SAWED-OFF RIFLE OR SHOTGUN
HB 368	02/09	03/27--(H) CHAPTER NUMBER	EFFECTIVE DATE: 10/01/89
		SPONSOR: COCCHIARELLA, VICKI	TITLE-NEGLIGENT VEHICULAR ASSAULT--LICENSE REVOCATION AND 12 CONVICTION POINTS
HB 386	02/13	04/24--TABLED IN COMMITTEE	
		SPONSOR: KNAPP, ROGER	TITLE-DIVIDING TAXES ON PERSONAL PROPERTY SOLD IN BANKRUPTCY
HB 393	02/28	04/03--(H) CHAPTER NUMBER	EFFECTIVE DATE: 10/01/89
		SPONSOR: DARKO, PAULA	TITLE-UNLAWFUL POSSESSION--INCLUDE CONSUMPTION--COMMUNITY SERVICE
HB 401	02/15	04/21--(H) -	FILED WITH SECRETARY OF STATE
		SPONSOR: BROWN, DAVE	TITLE-PERMIT PROBATION AND PAROLE OFFICERS TO CARRY FIREARMS
HB 409	02/09	03/23--(H) CHAPTER NUMBER	EFFECTIVE DATE: 03/23/89
		SPONSOR: GOOD, SUSAN	TITLE-CLARIFY ATTORNEY CLIENT PRIVILEGE
HB 422	02/28	04/08--(H) CHAPTER NUMBER	EFFECTIVE DATE: 04/08/89
		SPONSOR: EUDAILY, RALPH	TITLE-AMEND LIVING WILL ACT AS TO PEOPLE WHO MAY WITHHOLD LIFESUSTAINING PROCEDURE
HB 425	02/18	04/08--(H) CHAPTER NUMBER	EFFECTIVE DATE: 10/01/89
		SPONSOR: VINCENT, JOHN	TITLE-GENERALLY STIFFEN DUI PENALTIES
HB 448	02/09	03/29--(H) CHAPTER NUMBER	EFFECTIVE DATE: 10/01/89
		SPONSOR: MENAHAN, RED	TITLE-AUTHORIZE POSSESSION OF 25-YEAR OLD SLOT MACHINES
HB 454	02/06	03/23--(H) CHAPTER NUMBER	EFFECTIVE DATE: 10/01/89
		SPONSOR: CONNELLY, MARY ELLEN	TITLE-PROHIBIT APPEAL OF GUILTY PLEA TO DISTRICT COURT
HB 459	02/15	03/14--(H) CHAPTER NUMBER	EFFECTIVE DATE: 10/01/89
		SPONSOR: BROWN, JAN	TITLE-ALLOW JURIES OF LESS THAN 12 IN FELONY ACTIONS IF PARTIES AGREE
HB 471	02/15	03/30--(H) CHAPTER NUMBER	EFFECTIVE DATE: 03/30/89
		SPONSOR: GLASER, WILLIAM	TITLE-WATER DISTRICT MAY GET PREDECESSOR WATER ASSN PROPERTY BY EMINENT DOMAIN

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bruce Crippen, on March 7, 1989, at 10:00 a.m. in Room 325.

ROLL CALL

Members Present: Chairman Bruce Crippen, V. Chairman Al Bishop, Senators Tom Beck, Bob Brown, John Harp, Mike Halligan, Loren Jenkins, Joe Mazurek and R. J. Pinsoneault

Members Excused: Senator Bill Yellowtail

Members Absent: None

Staff Present: Staff Attorney Valencia Lane and Committee Secretary Rosemary Jacoby

Announcements/Discussion: None

HEARING ON HOUSE BILL 127

Presentation and Opening Statement by Sponsor:
Representative Jessica Stickney of Miles City, District 26, opened the hearing. She said the bill had been requested by the Department of Family Services. The bill's prime purpose is to eliminate the 19- and 20-year-olds from the Pine Hills and Mountain View Schools. Those individuals are a disruptive influence in the schools and the program does not address their needs as much as the younger students, she said

List of Testifying Proponents and What Group they Represent:

Bill Unger, Department of Family Services

List of Testifying Opponents and What Group They Represent:

Nick Rotering, Department of Institutions

Testimony:

Leslie Taylor said the bill would allow the Youth Court to commit a youth found to be seriously mentally ill to a mental health facility, such as Rivendell or Shodair Hospitals. She presented written testimony to the committee (Exhibit 2). She also presented copies of the codes relating to "Treatment of the Seriously Mentally Ill." (Exhibit 2, page 2)

Questions From Committee Members: Senator Crippen asked if the Department of Institutions had any problems with the bill. Mr. Rotering said no. He saw no risk that it would adversely affect Montana State Hospital.

Closing by Sponsor: Representative Addy closed the hearing.

DISPOSITION OF HOUSE BILL 152

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Pinsoneault MOVED that House Bill 152 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY.

HEARING ON HOUSE BILL 295

Presentation and Opening Statement by Sponsor: Representative Kelly Addy of Billings, District 94, said the bill was an attempt to clarify the law. If a person was in an accident or was involved in litigation arising from an accident, there is a need for documents which best state how the accident occurred, he said. Frequently, the reports are filled out by an officer at the scene of the accident. Subsection (2) at the top of page 2 says you can get a copy of the officer's report and notes without obtaining a court order. However, in Billings, the city attorney has been cautious and conservative in interpreting the statute and has required a court order for allowing the copying of these documents. All this act does is to give assurance that the information can be released to the parties involved without a court order. It will save the parties a $60 filing fee, he said.

List of Testifying Proponents and What Group they Represent:

Allen Chronister, State Bar of Montana

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Allen Chronister appeared in support of the bill. He distributed copies of a suggested amendment to the bill. (Exhibit 3) The amendments suggested that there was other language that could be corrected in 61-7-114. The problems related to language about reports not being admissible in civil actions. That has lead to unnecessary and fruitless motions, arguments, briefs, civil actions regarding disclosure or discovery of highway accident reports and whether or not they could be used in trial. He felt they should be allowed as they are the best and often the only sources of information available.

Questions From Committee Members: None

Closing by Sponsor: Representative Addy closed.

DISPOSITION OF HOUSE BILL 295

Discussion: Action on the bill was postponed to a future meeting.

HEARING ON HOUSE BILL 310

Presentation and Opening Statement by Sponsor:
Representative Ted Schye of Glasgow, District 18, opened the hearing saying it had been requested by the county attorney of Glasgow. He said the bill would revise the youth court act petition filing time and hearing provisions. He said that law enforcement has 24 hours to keep a youth before charging him. Sometimes the judges aren't in town as they have to travel a lot, he said, and the next closest judge is in

EXHIBIT NO. 3
DATE 3-7-89
BILL NO. HB 295

To: House Judiciary Committee

From: Allen Chronister
State Bar of Montana

Re: HB 295

The State Bar supports the concept of HB 295 and suggests the following amendments:

1. On page 2, line 14, following the word "administrator" insert "or by any party to a civil action arising from the accident."

2. On page 2, lines 15 through 23 should be removed from their present location as subsection (3) to 61-7-114 and inserted following the current language of Section 61-7-109(1).

ROLL CALL

JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989 Date 3-7-89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS	✓		
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL			✓

Each day attach to minutes.

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bruce Crippen, on March 9, 1989, at 10:00 a.m.

ROLL CALL

Members Present: Chairman Bruce Crippen, V. Chairman Al Bishop, Senators Tom Beck, Bob Brown, John Harp, Mike Halligan, Loren Jenkins, Joe Mazurek, R. J. Pinsoneault and Bill Yellowtail

Members Excused: None

Members Absent: None

Staff Present: Staff Attorney Valencia Lane and Committee Secretary Rosemary Jacoby

Announcements/Discussion: None

HEARING ON HOUSE BILL 204

Presentation and Opening Statement by Sponsor:
Representative John Cobb of Augusta, District 42, opened the hearing. He said the bill was to allow the placing of an SRS or county lien on, rather than subrogation interest in, a third-party recovery by a recipient whose medical expenses were paid by the department or county. He said that SRS and AFDC may be paying benefits for a party on welfare. If that person wins a lawsuit for a large amount of money, this bill will grant SRS authority to ask for some recovery by allowing a lien to be used to obtain the money. The hospitals and doctors already have this right and the SRS should also, he stated. The House amended the bill to provide that, unless the SRS pays the attorney fees, then the SRS is only entitled half of the recovery. This would make the SRS pay the attorneys fees which the hospitals and the doctors don't have to do, he added.

List of Proponents:
Russell Cater, Social and Rehabilitative Services

Amendments and Votes: None

Recommendation and Vote: Senator Jenkins MOVED that House Bill 135 BE TABLED. The MOTION CARRIED UNANIMOUSLY.

EXECUTIVE SESSION

DISPOSITION OF HOUSE BILL 295:

Discussion: Senator Mazurek who had offered to carry the bill explained the amendments. He said there were two kinds of reports -- by drivers and by investigating officers. In Section 9, he told the committee, it provided that individuals do not have to make reports if the investigating officers do make them. The drafter saw the need for confidentiality and admissibility to be clarified for both the investigative and the personal reports.

Amendments and Votes: Senator Mazurek MOVED the Amendments. The MOTION CARRIED UNANIMOUSLY.

Recommendation and Vote: Senator Mazurek MOVED that House Bill 295 BE CONCURRED IN AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

Senator Mazurek asked if the committee report could be held giving him additional time to satisfy one concern he had with the bill. Chairman Crippen agreed to do that.

DISPOSITION OF HOUSE BILL 312:

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Halligan MOVED that House Bill 312 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL 386:

Discussion: Senator Bishop commented that he had received a letter from a Mr. Mateucci who had good reason for opposing the bill.

SENATE STANDING COMMITTEE REPORT

March 14, 1989

MR. PRESIDENT:
We, your committee on Judiciary, having had under consideration HB 295 (third reading copy -- blue), respectfully report that HB 295 be amended and as so amended be concurred in:

Sponsor: Addy (Mazurek)

1. Title, line 10.
Strike: "SECTION"
Insert: "SECTIONS 61-7-109 AND"

2. Page 1.
Following: line 12
Insert: "Section 1. Section 61-7-109, MCA, is amended to read:

"61-7-109. Written reports of accidents -- additional information -- form of report. (1) The operator of any motor vehicle which is in any manner involved in an accident within this state in which any person is killed or injured or in which damage to the property of any one person in excess of $400 is sustained shall, within 10 days after such accident, report the matter in writing to the department unless the accident was investigated and reported by a law enforcement officer as provided in subsection (3).

(2) The department may require any driver of a vehicle involved in an accident of which report must be made as provided in this section to file supplemental reports whenever the original report is insufficient and may require witnesses of accidents to render reports.

(3) Every law enforcement officer who in the regular course of duty investigates a motor vehicle accident in which any person is killed or injured or in which damage to the property of any person exceeds $400, either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses, shall within 10 days after completing the investigation forward a written report of the accident to the department.

(4) The form of the accident report required under this section shall contain information sufficient to enable the department to determine whether the requirements for the deposit of security for safety responsibility are inapplicable by reason of the existence of insurance or other exemptions specified in this part.

continued

(5) A report required by subsection (1) or (2) may not be used as evidence in any trial, civil or criminal, arising out of an accident.""

Renumber: subsequent sections

3. Page 2, lines 16 through 24.
Strike: subsection (3) in its entirety

AND AS AMENDED BE CONCURRED IN

Signed: Bruce D. Crippen, Chairman

3-15-89
11 a.m.

scrhb295.314

28

HOUSE BILL NO. 295

INTRODUCED BY ADDY

A BILL FOR AN ACT ENTITLED: "AN ACT CLARYIFYING THAT A PERSON INVOLVED IN A MOTOR VEHICLE ACCIDENT OR HIS LEGAL REPRESENTATIVE MAY EXAMINE, WITHOUT OBTAINING A COURT ORDER, ALL ACCIDENT REPORTS AND SUPPLEMENTAL INFORMATION CONCERNING THE ACCIDENT THAT ARE PREPARED AND FILED BY THE DEPARTMENT OF JUSTICE PURSUANT TO THE UNIFORM ACCIDENT REPORTING ACT; AND AMENDING ~~SECTION~~ SECTIONS 61-7-109 AND 61-7-114, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

SECTION 1. SECTION 61-7-109, MCA, IS AMENDED TO READ:

"**61-7-109. Written reports of accidents -- additional information -- form of report.** (1) The operator of any motor vehicle which is in any manner involved in an accident within this state in which any person is killed or injured or in which damage to the property of any one person in excess of $400 is sustained shall, within 10 days after such accident, report the matter in writing to the department unless the accident was investigated and reported by a law enforcement officer as provided in subsection (3).

(2) The department may require any driver of a vehicle involved in an accident of which report must be made as provided in this section to file supplemental reports whenever the original report is insufficient and may require witnesses of accidents to render reports.

(3) Every law enforcement officer who in the regular course of duty investigates a motor vehicle accident in which any person is killed or injured or in which damage to the property of any person exceeds $400, either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses, shall within 10 days after completing the investigation forward a written report of the accident to the department.

(4) The form of the accident report required under this section shall contain information sufficient to enable the department to determine whether the requirements for the deposit of security for safety responsibility are inapplicable by reason of the existence of insurance or other exemptions specified in this part.

(5) A report required by subsection (1) or (2) may not be used as evidence in any trial, civil or criminal, arising out of an accident."

Section 2. Section 61-7-114, MCA, is amended to read:

"**61-7-114. Accident reports confidential.** (1) All required accident reports and supplemental reports shall be without prejudice to the individual so reporting and shall be for the confidential use of the department or other state agencies having use for the records for accident prevention

purposes~~,~~ or for the administration of the laws of this state relating to the deposit of security and proof of financial responsibility by persons driving or the owners of motor vehicles~~,--except--that--the.~~ The department may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at ~~such~~ the accident.

(2) ~~All~~ Except as provided in this section, all accident reports and supplemental information filed as required by this part shall be confidential and not open to general public inspection, nor shall copying of lists of such reports be permitted~~,except,however,that--the.~~ The report and supplemental information filed by law enforcement personnel, as required by this part, may be examined and copied, without obtaining a court order, by any person named in ~~such~~ the report or reports or by any driver, passenger, or pedestrian involved in the accident or by his representative designated in writing~~,~~ OR BY A PARTY TO A CIVIL ACTION ARISING FROM THE ACCIDENT, or if ~~such~~ the person ~~shall--be~~ is deceased, by his executor or administrator or by the attorney representing ~~such~~ his executor or administrator.

~~(3)--No-such-report-shall~~ may be used--as--evidence--in ~~any--trial,--civil--or--criminal,-arising-out-of-an-accident,~~ except-that-the~~.--The~~ department-shall-furnish--upon--demand

~~of--any--person-who-has-or-claims-to-have-made-such-a-report or-upon-the-demand-of-any-court-a-certificate-showing-that-a specified-accident-report-has-or-has-not-been--made--to--the department--solely--to--prove--a--compliance-or-a-failure-to comply-with-the-requirement-that-such-a-report--be--made--to the-department.~~"

NEW SECTION. **Section 3.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

-End-